

CHAPTER THREE . PERSONNEL

Subchapter Eight. Email and Other Electronic Communications

3.08.010 Style and Purpose

- (a) This subchapter shall apply to all employees of the Town of Colma, regardless of classification, and all independent contractors serving in roles normally served by employees of a general law city (collectively referred to herein as "Employee" or "Employees").
- (b) The purpose of this subchapter is to provide guidance to Employees regarding the proper and authorized use of the Town's Electronic Communication Systems (including the E-Mail System) in accordance with the requirements of the Public Records Act and the Town's Records Retention Policy.
- (c) An Employee with any questions regarding the implementation of this policy should contact his or her supervisor who may then contact the Town Attorney's office for legal questions, such as an interpretation under the Public Records Act; the Town Clerk's office regarding the Records Retention Policy; or the Information Technology Officer regarding any technical issues related to the use of the Electronic Communications System.
- (d) Each previous administrative policy or regulation regarding the use of Electronic Communication Systems which is inconsistent with this regulation is hereby repealed.
- (e) The City Manager shall be and hereby is authorized to adopt regulations and procedures to implement this policy.

3.08.020 Definitions.

As used in this subchapter:

"Electronic Communication" means any communication or writing created by, retrieved by, sent to, or stored by any Employee using any Electronic Communication System, including all information, data, and attachments to the communication.

"Electronic Communication System" means the system of devices (including hardware, software, and other equipment) used by the Town for the purpose of facilitating the transmission and storage of electronic information (including the E-Mail System, telephones, pagers, radios, computers, and all peripheral devices such as hard drives, disks, tapes, film, CDs, and palm pilots).

"E-Mail" means any Electronic Communication to or from any Employee using the E-Mail System, including all information, data, and attachments to the communication.

"E-Mail System" means the system of devices (including hardware, software, and other equipment) used by the Town for the purpose of facilitating the electronic transmission of information, including internet communications, and the Town's use of *Microsoft Outlook* program (including E-Mail, Calendar, and Tasks).

"Information Technology Officer" or "IT Officer" means a qualified computer technician appointed by the Town Manager to administer the Town's Electronic Communications System;

"Public Record" means any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the Town regardless of physical form or characteristics.

"Public Records Act" means California Government Code sections 6200, et seq.

"Records Retention Policy" means the Town's Records Retention Policy and Detention, as set forth in Chapter One, Subchapter Seven of the Colma Administrative Code.

"Writing" means, as defined by California Government Code section 6252(e), any handwriting, typewriting, printing, photocopying, photographing, and every other means of recording upon any form of communication or

representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

3.08.030 Passwords.

(a) Each department head will each maintain a list of all passwords of employees in that department and will periodically review the password(s) of each employee with the employee to assure the accuracy of the password list.

(b) It is the employee's responsibility to report any change in their pass code.

(c) Employees are prohibited from the unauthorized use of the access codes of other employees to gain access to their e-mail and voice-mail messages.

3.08.040 No Privacy Right

(a) No Employee shall have any expectation of privacy regarding the content of any Electronic Communications.

(b) The Electronic Communication System and all Electronic Communications are the property of the Town. The Town has the right, but not a duty, to inspect or audit any and all Electronic Communications, at any time, for any lawful purpose, without notice to any Employee.

(c) Employees are hereby notified that the IT Officer has the ability to read each file in the Electronic Communication System, even if the file has been password-protected by the user. The Town has the right, but not the duty, to use this ability to inspect or audit Electronic Communications, as stated above.

3.08.050 Preparing and Using Email

(a) An employee shall prepare Electronic Communications in a lawful, ethical, professional, and businesslike manner, and must comply with all Town policies and procedures. The use of the Electronic Communication System is a privilege which may be revoked by the Town at any time.

(b) Email should be prepared and used as if it were formal business correspondence. As examples: spell-check email before sending; capitalize proper nouns; use salutations and closings.

(c) Productivity suffers when employees are overburdened with reading or responding to unnecessary email. Accordingly, use of the following features is discouraged:

- (1) Transmitting to "All Users";
- (2) Using the "Reply to All" feature;
- (3) Sending copies to other persons for information only.

3.08.060 When Email Constitutes a producible Public Record

(a) The following types of email messages are generally considered Public Records which must be produced for inspection or copying under the Public Records Act:

- (1) Messages that document the formulation or execution of basic policies and the decisions or the taking of necessary actions;
- (2) Messages providing documentation of significant official decisions and commitments reached orally and not otherwise documented in official files; and
- (3) Messages that facilitate action, such as the initiating, authorizing or completing a transaction in connection with official public business.

(b) The following types of email messages either are not generally considered "Public Records" or are exempt from inspection or copying:

- (1) Copies or extracts of documents distributed for convenience or reference;
- (2) Internal documents created by employees on work-related topics which do not facilitate action, such as cover

notes and standard distribution slips that merely facilitate the flow of a document from one person to another;

(3) Drafts, notes inter-agency or intra-agency memoranda that are not retained by the city in the ordinary course of business; and

3.08.070 Email for Transmission Not Storage; Transfer of Messages to Storage

(a) The Town provides the E-Mail System to Employees as a convenient and efficient method of rapidly communicating transitory information in an electronic format. The E-Mail System is specifically intended and designed to be a tool for transmission of information, and not a tool for storage of information. Each employee is expressly forbidden to use email system for permanent storage of electronic communications. Each employee should regularly and routinely empty mail inboxes and outboxes.

(b) Each user shall automatically purge E-Mail pursuant to the schedule set forth in this subchapter.

(c) Since information on the E-Mail System is automatically purged, each employee who sends or receives an email message that can be considered a producible Public Record shall transfer the message from the E-Mail system to a records storage medium, such as printing a hard copy and storing the copy in a file folder.

3.08.080 Duty to Protect the Electronic Communications System.

Each employee shall take all reasonable and necessary efforts to prevent unauthorized intruders from accessing the Electronic Communications System and prevent the introduction or spread of computer viruses. Specifically, but without limitation, employees:

(1) Shall not download any executable file (for example, a file with ".exe" or _____ at the end of its name), program, game, toolbar or utility without permission of the IT Officer;

(2) Shall not open email from unknown sources with attachments;

(3) Shall promptly notify the City Manager or IT Officer if the employee believes that his or her computer has been downloaded or received any virus, worm, pornographic images, sexually explicit messages, and sexually explicit graphic, ethnic or racial slurs.

3.08.090 Duty to Protect Confidential Information.

(a) Whenever an Employee possesses "confidential" information, the Employee has an obligation to take all reasonable and necessary steps to protect the confidentiality of the information and minimize the likelihood of inadvertent transmission of the confidential information to unintended recipients. If an Employee has any question regarding the implementation of this section, his or her supervisor who may then contact the Town Attorney's office for legal questions.

(b) An employee shall treat information as "confidential" if there is any reasonable possibility that the information relates to a personnel matter such as personal information, financial information, or medical information; if a party claims that it is valuable, proprietary information not generally known to the public; or if it could potentially expose the Town to liability.

(c) An employee with the care and custody of confidential information shall be responsible for determining which other Employees (or possibly private attorneys or consultants hired to represent the Town) are authorized recipients of the information. Generally, only people with a "need to know" the confidential information are authorized recipients. Employees with any questions as to who is an authorized recipient for confidential information shall contact the Town Attorney's office.

(d) An employee shall not communicate confidential information to any person other than an authorized recipient, or forward a confidential E-Mail to any unauthorized recipient.

(e) For the communication of confidential information, Employees shall minimize the use of E-Mail and maximize the use of alternative communication media. In determining whether or not confidential information should be communicated via E-Mail versus some other form of communication, each Employee shall weigh the benefits of communicating via the E-Mail System (including, speed of communicating in writing over great distances, and the efficiency of electronic editing of documents by one or more people) against the risk that the confidential information may be inadvertently sent or forwarded to an unintended recipient.

(f) All confidential information which is contained in an Electronic Communication shall be clearly marked CONFIDENTIAL. If confidential information is required to be retained (as described below), it shall be clearly designated as CONFIDENTIAL in the appropriate storage or filing system.

3.08.100 Other Prohibited Uses.

The following uses of the computer are prohibited:

- (1) Installing programs from outside the Town on the Town computer system;
- (2) Copying software programs;
- (3) Copying copyrighted material;
- (4) Using the computer for personal purposes except for limited use with prior approval of the Employee's supervisor;
- (5) Use of the computer commercial ventures, religious or political causes, or other non-job-related solicitations;
- (6) Viewing or downloading pornographic images;
- (7) Transmitting or storing sexually explicit messages, cartoons, ethnic or racial slurs;

(8) Using the Town's information systems in any way that may be disruptive or offensive to others, including, but not limited to, or anything that may be construed as harassment or disparagement of others;

(9) Disguising or attempting to disguise the origin of an E-Mail, except when authorized by the Chief of Police for a criminal investigation; and

(10) Accessing another Employee's E-Mail unless authorized by: the other Employee, the other Employee's supervisor, or the Town Manager.

3.08.110 Purging

(a) Since all E-Mails are preliminary drafts, every Employee (sending or receiving any E-Mail) shall delete the E-Mail as soon as the information is no longer required or convenient for the discharge of the Employee's duties, and the E-Mail shall be automatically purged by the Town in accordance with the schedule set forth in this subchapter.

(b) All information on the E-Mail System, including unopened email, shall be subject to automatic purging (deletion) by the Town, without any notice to Employees, in accordance with the schedule set forth below. The purging schedule shall be as follows:

- (1) Calendar, tasks, and note entries shall be purged after one year.
- (2) All E-Mail messages shall be purged 60 days after sent or received.

(c) For each E-Mail sent or received, each employee shall determine whether or not there is information on the E-Mail which is required to be retained for the discharge of the Employee's official duties for the Town. This determination shall be made using the same criteria which is applied to information sent or received by the Employee using any other means of

communication. An employee with any question (as to whether a particular category of information is required to be retained) shall consult with their supervisor, and supervisors shall consult with the Town Attorney's office. Categories of information which are typically retained by the Town include: (1) required by law to be retained; (2) documentation of notice to a member of the public of an action or position taken, or an action or position to be taken, on behalf of the Town; (3) documentation of a Town policy, Town regulation, or official decision made on behalf of the Town; or (4) documentation of the transaction of business between the Town and another party.

(d) If an E-Mail contains information which is required to be retained, the Employee shall: transfer the required information from the E-Mail to an appropriate public record storage system (such as printing the E-Mail on paper or electronically filing it on the computer in a folder other than the Archives folder) before it is deleted or purged from the E-Mail System, and maintain the public record in accordance with the Town's Records Retention Policy.

(e) The "Archive" feature of the E-Mail System is not available for use as a record storage system. The "Archive" feature of

Microsoft Outlook shall be disabled. An employee shall not manipulate settings in the E-Mail System in an attempt to use the "Archive" feature or in an attempt to bypass the automatic purge cycle set by the Town.

3.08.120 Preservation of Documents During Pending Litigation

Notwithstanding anything to the contrary in this subchapter, each employee shall, upon distribution of a notice of pending litigation from the City Manager or City Attorney, have a duty to preserve and retain email and other electronic communications that are relevant to the pending litigation. Such documents shall be transferred to a records storage medium and stored there until conclusion of the litigation.

3.08.130 Violations; Duty to Report.

(a) Violation of this subchapter is subject to discipline up to and including termination.

(b) Any Employee who knows of potential criminal activity involving the use of any Electronic Communication shall immediately report the activity to the Employee's supervisor. The supervisor shall immediately report the activity to the Investigative Unit of the Police Department and the Personnel Manager.